

REMARKS

Oath-Declaration

The Examiner objected to the Declaration submitted by Applicant. These deficiencies are addressed by herewith submitting a new Declaration in compliance with 37 CFR 1.67(a). Accordingly, Applicant believes this objection to be overcome.

Drawings

The Examiner objected to the T_T shown in Figure 2. Applicant believes the Examiner has mistaken Figure 3 for Figure 2. With respect to Figure 3, Applicant has amended the specification as suggested by the Examiner to overcome the Examiner's concern with either figure.

Specification

The Examiner objected to the specification based on certain informalities. Applicant has amended the specification to address these concerns. These objections have been overcome.

Claim Objection

The Examiner objected to claim 3 based on an informality. Applicant has addressed this informality. Claim 3 is no longer objectionable for this reason.

Claim Rejections - 35 U.S.C. §112

The Examiner rejected claims 1-17 pursuant to 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended its claims to address each of the concerns raised by the Examiner. Accordingly, this claim rejection has been overcome.

Claim Rejections - 35 U.S.C. §102

In the Non-Final Office Action mailed on July 17, 2003, the Examiner rejected claims 1-20. Applicant has amended its claims and believes these claims to be in condition for allowance over the cited references.

Specifically, Applicant has amended claim 5 to include the limitations of claims 1 and 4 and to place claim 5 in independent form. Claim 5 requires in particular “a battery in communication with said circuit.” The Examiner rejected claim 5 as being unpatentable over *Murty, et al.* in view of JP ‘709. However, there is no motivation or suggestion to combine these references in either of the cited references. Instead, the Examiner argues that such a combination exists “...to provide a simpler shock absorber apparatus that eliminates the need for a rotary-to-linear space converter.” [Non-Final Office Action (7-17-03), p. 7]. However, the Examiner provides no support for such motivation and can identify no portion of either reference that supports such motivation. Accordingly, the combination of *Murty, et al.* with JP ‘709 is improper. Claim 5 and its dependents, claims 2-3, 6-8 and 10 are in condition for allowance.

Applicant has placed claim 9 in independent form by adding the limitations of claims 1 and 7. This claim stands in condition for allowance in view of the cited references. Specifically, the Examiner relies upon *Harris* as apparently teaching the limitation of “said switching circuit switches at a higher frequency than the frequency of movement of said magnetized plunger” as required by claim 9. In so doing, the Examiner relies on the following passage from *Harris*:

For the practical application of such systems in industrial rotating machinery, the output of these amplifiers must vary in the order of thousands of cycles per second in order to maintain or adjust the desired position.

[*Harris*, column 1, ll 23-25].

Neither this passage nor *Harris* sets forth the novel feature of a switching circuit that switches at a higher frequency than the frequency of movement of a magnetized plunger. Accordingly, claim 9 is in condition for allowance.

Even assuming *Harris* can be read in the fashion suggested by the Examiner, the Examiner provides insufficient grounds to support this combination. There is no suggestion or motivation to combine these references. The Examiner’s reliance on language found in the background of the invention of *Harris* as such motivation makes little sense when considering JP ‘709. Specifically, the Examiner indicates that it might be important to accurately control the position of the magnetized plunger. However, for a suspension system as taught by JP ‘709, the suspension member of JP ‘709 is not static but is in fact moving and the magnetic field generated by the coils of JP ‘709 serve to dampen motion rather than dictate a particular position for the magnetic plunger. Therefore, the combination of *Harris* and JP ‘709 is improper. Claim 9 is therefore in condition for allowance.

Applicant has further amended claim 13 to include the limitations of claim 11 and 12. The Examiner rejected claim 13 based on the combination of *Murty, et al.* in view of JP '709. For the reasons set forth previously, the combination is improper. Accordingly, claim 13 and its dependents, claims 13-17, are in condition for allowance.

In addition, claim 17 requires that the "switching circuit switches at a higher frequency than the frequency of movement of said magnetized plunger." For the reason that claim 9 is in condition for allowance, claim 17 is also in condition for allowance.

Applicant has also added new claim 21, which depends upon claim 14. Claim 21 requires that "said control determines when to charge said battery based on a level of movement of said vehicle support." This feature is not taught by any of the references cited by the Examiner. Indeed, *Murty, et al.* only teaches the charging of the battery depending upon the direction of movement of the actuator. [*Murty, et al.*, column 4, ll 57 to column 5, ll 11]. In contrast, claim 21 requires that the battery be charged based on the level of movement of the vehicle support for the wheel rather than its direction. As noted in the specification of the present application, such a feature permits charging a battery 38 when significant damping is not required. (Application, page 6, paragraph 22). Because this feature is not taught by *Murty, et al.* or any other reference, this claim is in condition for allowance for this additional reason.

Claim 18 also requires this feature. Therefore, claim 18 is also in condition for allowance.

Applicant believes that additional fees in the amount of \$86.00 are required for one independent claim in excess of three. A check in the amount of \$86.00 is enclosed. The

Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS

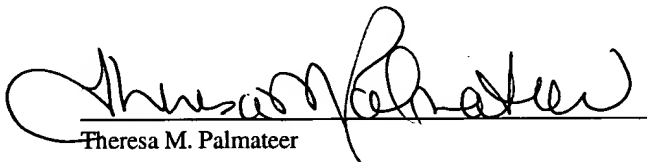
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Dated: October 13, 2003

CERTIFICATE OF MAILING

I hereby certify that the enclosed Amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on October 13, 2003.


Theresa M. Palmateer

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